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T.R.A. DOCKET ROOM

April 6, 2004

Hon Deborah Taylor Tate
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee TN 37238

Re *Petition for Arbitration of ITC^DeltaCom Communications, Inc. with
BellSouth Telecommunications, Inc*
Docket No. 03-00119

Dear Chairman Tate

ITC^DeltaCom respectfully requests that the TRA proceed to rule on the parties' final best offers relating to issue 26(c) in the above-captioned arbitration.

As framed by the parties, issue 26(c) concerns BellSouth's offering of unbundled switching in situations where BellSouth is not required by Section 251 of the federal Telecommunications Act to make switching available at TELRIC rates (but is required by Section 271 to offer switching at a "just and reasonable rate.")

The issue reads:

"Is BellSouth required to provide local switching at market rates where BellSouth is not required to provide local switching as a UNE? If so, what should be the market rate?"

The Authority has already ruled that "BellSouth is to provide local switching at market rates where BellSouth is not required to provide local switching as a UNE." Transcript of TRA Conference of January 12, 2004, at p 16 The Authority, however, has not yet determined a "market rate." The Authority has rejected BellSouth's proposed rate of \$14 "since BellSouth cannot support or justify that rate as just and reasonable as required by FCC rules." Id. Similarly, the panel rejected the TELRIC rate proposed by ITC^DeltaCom because "it would not be a rational interpretation of the FCC rules to price non-UNE network elements the same as UNEs." Id. The panel then directed the parties to submit final best offers "as to the appropriate interim rate for analog switching when BellSouth is not required to provide such switching as a UNE at TELRIC rates." Id., at 16 The final best offers have been filed and the issue is ripe for decision.

As the Authority is aware, there are many unresolved legal issues concerning the obligations of incumbent carriers to offer unbundled switching pursuant to Section 251 In light

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of these uncertainties, all five members of the Federal Communications Commission last week urged carriers to engage in negotiations to resolve these switching related issues.

ITC^DeltaCom will consider carefully any proposals from BellSouth concerning the availability and price of switching. It is not clear, however, how long the parties may have to negotiate, the legal status of the Triennial Review Order and the parties' current interconnection agreement, and what interim rules the FCC may adapt if the TRO's findings regarding switching are no longer in effect. These issues may not be resolved for some time. Meanwhile, ITC^DeltaCom must still buy unbundled switching in order to serve its customers and, if those customers are located in the Nashville area, ITC^DeltaCom is still being charged BellSouth's \$14 rate, a price which the Authority has already found to be unreasonable.

Under these circumstances, ITC^DeltaCom needs a prompt resolution of Issue 26 (c). As BellSouth witness Kathy Blake testified in this arbitration proceeding last August, a time when there were also a number of unanswered legal issues, the Authority cannot expect that these matters will be resolved anytime soon but should "render its determination of the issues based on the current statutory and regulatory requirements." Direct Testimony of Kathy Blake, pp. 2-3, emphasis in original. Ms. Blake went on to point out that if there are legal and regulatory changes which occur in the future, "the change of law provisions in the interconnection agreement will allow the interconnection agreement to be revised accordingly." *Id.*, at 3.

After the TRA has made its decision, the parties may, of course, continue to engage in discussions about these issues just as the courts and the FCC may make changes in the current regulatory requirements. As Ms. Blake testified, any such settlements or legal changes can then be incorporated by amendment into the parties' new interconnection agreement.

Very truly yours,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By:



Henry Walker

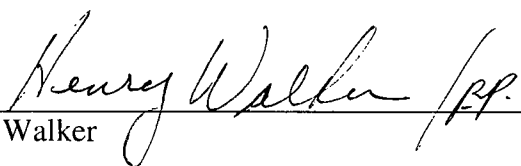
HW/pp

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been forwarded via U S Mail, postage prepaid, to:

Guy Hicks
333 Commerce Street
Suite 2101
Nashville, TN 37201-3300

on this the 6th day of April, 2004.


Henry Walker